

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

UNITED STATES OF AMERICA

PLAINTIFF

V.

CIVIL CASE NO. 3:16cv27-TSL-RHW

REAL PROPERTY LOCATED AT
19 CRANE PARK, HATTIESBURG,
LAMAR COUNTY, MISSISSIPPI
WITH ALL APPURTENANCES,
IMPROVEMENTS, AND FIXTURES
THEREON, ET AL

DEFENDANT PROPERTY

ANSWER AND DEFENSES OF JOELE SMITH

COMES NOW Joele Smith by and through her counsel Owen, Galloway & Myers, P.L.L.C. and submits her Answer and Defenses as follows, to-wit:

FIRST DEFENSE

Joele Smith specifically asserts and invokes all defenses available as set forth in FRCP Rule 12, including all defenses set forth in 12(b)(1) through 12(b)(7).

SECOND DEFENSE

Joele Smith incorporates by reference the Verified Claim of Interest of Joele Smith [Doc #9], and the Verified Claim of Interest of Randel Smith and Joele Smith [Doc #10] filed in this civil action on May 25, 2016.

ANSWER TO THE ALLEGATIONS OF THE COMPLAINT

NOW having set forth preliminary defenses, and without waiving her right to be heard regarding said defenses, Joele Smith now responds to Plaintiff's Complaint paragraph by paragraph as follows:

NATURE OF THE ACTION

1. Responding to the unnumbered paragraph titled Nature of the Action, Joele Smith admits the Plaintiff filed a Verified Complaint for Forfeiture *In Rem* in this civil action. Joele Smith denies the properties referenced in the Verified Claim of Interest of Joele Smith [Doc #9] and the Verified Claim of Interest of Randel Smith and Joele Smith [Doc #10] is subject to seizure and forfeiture.

THE DEFENDANT IN REM

2. Responding to the unnumbered paragraph titled The Defendant In Rem, Joele Smith denies the allegations of this paragraph.

JURISDICTION AND VENUE

3. Responding to the unnumbered paragraph titled Jurisdiction and Venue, Joele Smith admits the United States District Court for the Southern District of Mississippi has subject matter jurisdiction, but affirmatively states venue is proper in the Eastern Division. The properties identified in Joele Smith's Verified Claim of Interest of Joele Smith [Doc #9], and the Verified Claim of Interest of Randel Smith and Joele Smith [Doc #10] filed on May 25, 2016 are not located in the Northern Division of this Court. The remaining allegations set forth in subparagraph three of this paragraph are denied.

BASIS FOR FORFEITURE

4. Responding to the fourth unnumbered paragraph of the Complaint titled Basis for Forfeiture, Joele Smith denies the allegations of this paragraph.

FACTS AND CIRCUMSTANCES

5. Responding to the fifth unnumbered paragraph titled Facts and Circumstances, Joele Smith admits the Declaration of Agent Darren Mayer of the Internal Revenue Service is attached as Exhibit "A", but Joele Smith specifically denies the allegations of the Declaration, including the allegations of subparagraphs 1 through 10.

CLAIM FOR RELIEF

6. Responding to the last unnumbered paragraph titled Claim for Relief, Joele Smith denies the allegations of this paragraph.

7. Joele Smith denies each and every allegation to the Complaint and any exhibits to the Complaint not specifically denied herein.

COUNTER-CLAIM

Now having set forth her Answer and Defenses to the Complaint, Joele Smith files her Counter-Claim to the properties as described in Joele Smith's Verified Claim of Interest of Joele Smith [Doc #9], and the Verified Claim of Interest of Randel Smith and Joele Smith [Doc #10] filed in this civil action on May 25, 2016.

Joele Smith is the owner of the real property as described in Joele Smith's Verified Claim of Interest of Joele Smith [Doc #9], and a joint owner of the property as described in the Verified Claim of Interest of Randel Smith and Joele Smith [Doc #10].

Joele Smith demands return of the properties and dismissal of all liens, Notices of Seizure, and any other encumbrance issued by the Plaintiff. Joele Smith requests all encumbrances be stricken from applicable public and private records.

WHEREFORE PREMISES CONSIDERED, Joele Smith prays the Complaint filed by the Plaintiff be dismissed with prejudice, and the Court grant the relief set forth in the Counter-Claim. Joele Smith prays for such other relief as it may be entitled.

RESPECTFULLY SUBMITTED, this the 7th day of June, 2016.

JOELE SMITH, CLAIMANT

BY: OWEN, GALLOWAY & MYERS, PLLC

BY: /s/ JOE SAM OWEN, MSB #3965

BY: /s/ BEN F. GALLOWAY, MSB #4390

Counsel for Claimant Joele Smith

CERTIFICATE OF SERVICE

I, Joe Sam Owen and Ben F. Galloway, of the law firm Owen, Galloway, & Myers, P.L.L.C., do hereby certify that I this date electronically filed the above and foregoing pleading with the Clerk of the Court using the ECF System which sent notification of such filing to:

Marc A. Perez, Esq.
Assistant United States Attorney
501 E. Court Street, Suite 4.430
Jackson, MS 39201

SO CERTIFIED THIS the 7th day of June, 2016.

/s/ JOE SAM OWEN, MSB #3965

/s/ BEN F. GALLOWAY, MSB #4390

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